



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2014-0660; FRL-9932-18-Region 5]

Air Plan Approval; Indiana; Alcoa BART

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Alcoa Best Available Retrofit Technology (BART) averaging time for nitrogen oxides (NO_x) in the Indiana State Implementation Plan (SIP). On July 23, 2014, the Indiana Department of Environmental Management (IDEM) submitted to EPA a revision to the daily NO_x emissions limits, changing from a rolling 24-hour average to a 24-hour daily average. IDEM provided a statistical analysis showing that no significant increase in emissions will occur as a result of this change. EPA is approving this SIP revision because it will not interfere with attainment or maintenance of the National Ambient Air Quality Standard (NAAQS).

DATES: This direct final rule is effective **[insert date 60 days after date of publication in the Federal Register]**, unless EPA receives adverse comments by **[insert date 30 days after date of**

publication in the Federal Register]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No.

EPA-R05-OAR-2014-0660, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: blakley.pamela@epa.gov
3. Fax: (312) 692-2450.
4. Mail: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No.

EPA-R05-OAR-2014-0660. EPA's policy is that all comments

received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some

information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Carolyn Persoon, Environmental Engineer, at (312)353-8290, before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Carolyn Persoon, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)353-8290, persoon.carolyn@epa.gov

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Alternate Averaging Calculation.
- II. What Action is EPA Taking?
- III. Incorporation by Reference.
- IV. Statutory and Executive Order Reviews.

I. Alternate Averaging Calculation

Background for Alcoa BART NO_x emission limits and calculations

On June 11, 2012, EPA approved BART NO_x emission limits and compliance requirements for Alcoa into the Indiana SIP to meet Regional Haze requirements (77 FR 34218)¹. The rule, 326 IAC 26-2-2, sets emission limits, which include averaging times, for Alcoa's Warrick Power Station located in Newburgh, Indiana.

For the original Regional Haze SIP, IDEM submitted an engineering analysis for the rulemaking that included recommended BART limits for particulate matter (PM), sulfur dioxide (SO₂) and NO_x. For Alcoa's Warrick Plant Boilers 2 and 3, the averaging time for the NO_x limit was a 24-hour rolling average. IDEM revised the rule 326 IAC 26-2-2 on March 12, 2014, with an effective date of June 29, 2014 to change the NO_x averaging time for Boilers 2 and 3 to be 24-hour daily averages rather than 24-hour rolling averages, in order to be consistent with other pollutant averaging times.

On March 12, 2014, the Indiana Environmental Rules Board approved these rule changes in accordance with the provisions of Title 13 of the Indiana Code. On November 20, 2013, IDEM provided a public notice and comment on the SIP revision in the

¹ EPA finalized a limited approval of revisions to the Indiana State Implementation Plan (SIP) submitted by the Indiana Department of Environmental Management (IDEM) on January 14, 2011, and March 10, 2011, addressing regional haze for the first implementation period that ends 2018. This action was in accordance with the requirements of the Clean Air Act (CAA) and EPA's rules for states to prevent and remedy future and existing anthropogenic impairment of visibility in mandatory Class I areas through a regional haze program. As part of this action, EPA approved limits for the Alcoa facility that EPA finds satisfy the requirements for best available retrofit technology (BART).

Indiana Register. There were no requests for a public hearing, and no public comments were received.

Analysis of Revision.

EPA's approval is based on whether the rule revision meets the requirements of section 110(1) of the Clean Air Act (CAA), 42 U.S.C. 4202(1). In particular, EPA considered whether the changes made to the compliance averaging times for Boilers 2 and 3 would allow for higher overall emissions of NO_x on an hourly basis while still meeting the emission limits. IDEM submitted to EPA a supplemental analysis showing the maximum difference between the two calculation methods.

IDEM's analysis compared the two averaging times using the Warrick Plant continuous emissions monitor (CEM) data for NO_x from August 2013, the month with the highest NO_x emissions. This data and analysis can be found in the docket. Using this data, IDEM calculated both 24-hour rolling and 24-hour daily averages for the NO_x emissions, and then calculated the difference between each 24-hour period. The maximum calculated difference in emissions between the two methods was 0.01 pounds per million BTU (lbs/mmBTU), which EPA determined not to be statistically significant using a paired t-test analysis. EPA also evaluated air quality monitoring data for nitrogen dioxide (NO₂), as well as fine particulate (PM_{2.5}) and ozone, since NO_x is a precursor for both. Current design values (2012-2014) for the NO₂ 1-hour

standard (100ppb), ozone (75ppb) and PM_{2.5} standards (12 µg/m³ for the annual and 35 µg/m³ for the 24-hour standard) for the area all show attainment of the standards at 35 ppb, 72 ppb, and 10.9 and 25 µg/m³, respectively. See EPA's web site on design values at <http://www.epa.gov/airtrends/values.html>. EPA has determined that the area will maintain the standards because ambient levels are currently below the NAAQS and continue to decline. A potential emissions increase of 0.01 lbs/mmBTU is not likely to cause a violation of the NAAQS, therefore noninterference has been demonstrated.

The Indiana SIP revision is therefore approvable because the revision meets the requirements under 110(l), given that the area is attaining all applicable NAAQS, and that the revision will not impact the ability to maintain the NAAQS.

II. What Action is EPA Taking?

EPA is approving a revision to the Alcoa BART averaging times for the Warrick Plant Boilers 2 and 3 (326 IAC 26-2-2(2)(C)(i)), from 24-hour rolling average to 24-hour daily average. EPA's review and analysis has determined the revision will not interfere with attainment or maintenance of the NAAQS, as prescribed by section 110(l) of the CAA.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this

Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan amendment if relevant adverse written comments are filed. This rule will be effective **[insert date 60 days after the date of publication in the Federal Register]** without further notice unless we receive relevant adverse written comments by **[insert date 30 days after the date of publication in the Federal Register]**. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective **[insert date 60 days after the date of publication in the Federal Register]**.

III. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with

requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Indiana Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

IV. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian

tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of

judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Particulate Matter, Reporting and recordkeeping requirements.

Dated: August 3, 2015.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.770 the table in paragraph (c) is amended under "Article 26. Regional Haze", "Rule 2. Best Available Retrofit Technology Emission Limitations" by revising the entry for 26-2-2 "Alcoa emission limitations and compliance methods" to read as follows:

§ 52.770 Identification of plan.

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(c) * * *

EPA-APPROVED INDIANA REGULATIONS

Indiana citation	Subject	Indiana effective date	EPA Approval date	Notes
* * * * *				
Article 26. Regional Haze				
Rule 2. Best Available Retrofit Technology Emission Limitations				
* * * * *				
26-2-2	Alcoa emission limitations and compliance methods	6/29/2014	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
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[FR Doc. 2015-20528 Filed: 8/19/2015 08:45 am; Publication Date:
8/20/2015]